

III. REMARKS

Applicants have considered the Office Action with mailing date of March 12, 2007. Claims 1 – 22 are pending in this application. By this amendment, claims 1, 10, 14 and 19 have been amended. The present claim amendments and cancellations are only for facilitating expeditious prosecution and Applicants are not conceding in this application that those claims are not patentable over the art cited by the Office. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants respectfully reserve the right to pursue the full scope of the subject matter of these original claims and other claims in one or more subsequent patent application that claim(s) priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 19 – 22 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subjected matter. Claims 1 – 5, 8 – 10, and 13 – 22 are rejected under 35 U.S.C. §102(a) as allegedly being anticipated by U.S. Publication No. 2002/0133573, hereinafter “Matsuda”, with US Patent No.: 6,772,420 B1, hereinafter “Poger”, providing intrinsic evidence. Claims 6 – 7 and 11 – 12 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Matsuda as applied to claims 4 and 10, in view of US Publication No. 2002/0062485, hereinafter “Okano”

Applicants respectfully present the following arguments for the Office’s consideration.

A. REJECTION OF CLAIMS 19 – 22 UNDER 35 U.S.C. §101

The Office has rejected claims 19 – 22 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter because the claims appear to claim a software system without hardware indication. Applicants respectfully submit that the claims are directed to statutory subject matter because each of the claims recites the use of a tangible medium or hardware for implementing the computer program product.

Applicants have amended independent claim 19, which currently recites, *inter alia*, “[a] program product stored on a computer readable medium for managing device identifiers... executed by a computer ...”. Applicants believe that currently amended claim 19 recites a product of manufacture because a computer software or program product embodied in a tangible medium (e.g., a computer readable medium) is a product of manufacture capable of setting forth a process. Such a program product involves some form of physical transformation within the computer for generating device identifiers in the management of devices in a network. MPEP§2106 IV B.2(b). To this extent, the result of such a program product is one that is useful in a practical application within the technological arts. As such, Applicants respectfully request that the Office withdraw this rejection and allow the currently amended claim 19.

As to the Office’s interpretation that any transmission medium includes a carrier signal, Applicants submit that it is the computer program product/software, not the carrier signal that is executed by the computer. The execution of the computer program product by the computer forms a structural and functional interrelationship therebetween for “... generating a device identifier ... and associating correlation data ...”, claim 19. Applicants submit that the recited computer program product embodied in a carrier signal is tangibly embodied in a manner so as to

be executable by the recited computer. As such, the claimed computer program product so embodied set forth a product of manufacture that is capable of causing functional change through hardware components in the computer.

In the *Chakrabarty* opinion, the Supreme Court has stated that, "...the term 'manufacture' in § 101 in accordance with its dictionary definition to mean 'the production of articles for use from raw materials prepared by giving to these materials new forms, qualities, properties, or combinations whether by hand labor or by machinery.'" MPEP §2105. Applicants submit the carrier signal is a product produced by a machine (e.g., computing device). In addition, the claimed carrier signal embodies a software including structured data which, when received or implemented in a computer, defines structural and functional inter-relationships with the computer. Whether the computer software is embodied in the form of a tangible recordable medium (e.g., storing the software on a CD-ROM) or the form of a carrier signal (e.g., transmitting the software over a wired or wireless network), both are but different forms of computer readable medium primarily to enable the transfer of a software and its implementation in a computer to cause functional changes therein. As such,

[t]here is no reason to treat works that are distributed... by means of transmission differently than works distributed... by other, more conventional means. Copies distributed via transmission are as tangible as any distributed over the counter or through the mail. Through each method of distribution, the consumer receives a tangible copy of the work.

Statement of Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, on S. 1284 and H.R. 2441 before the Subcommittee on Courts and Intellectual Property Committee on the Judiciary, United States House of Representatives, and the Committee on the Judiciary, United States Senate, November 15, 1995. Although this statement

is directed at issues relating to infringement of copyrighted works, Applicant submits that the rationale applies equally with respect to infringement of patented works, such as computer software.

In view of the foregoing arguments, independent claim 19 and dependent claims 20 – 22 clearly fall within the ambit of the definition of the term “manufacture” in §101. Accordingly, Applicants respectfully request the Office’s reconsideration and withdrawal of this rejection.

B. REJECTION OF CLAIMS 1 – 5, 8 – 10, and 13 – 22 UNDER 35 U.S.C. §102(a) AND CLAIMS 6 – 7 AND 11 – 12 UNDER 35 U.S.C. §103(a)

With regard to the 35 U.S.C. §102(a) rejection over Matsuda with Poger providing intrinsic evidence, Applicants assert that the cited references do not teach each and every feature of the claimed invention. Applicants appreciate that Poger is cited, as an exception to the rule that a factual reference must antedate an application, as evidence on the characteristic of prior art. MPEP §2124. However, with respect to currently amended independent claim 1, Applicants submit that the cited references fail to disclose or teach, *inter alia*, a device identifier that is generated “...by the server ...and is based on a particular user and a particular device...”. Support for this amendment in claim 1 is found in ¶ [0019] and ¶ [0025] of the originally filed patent specification of the application. Without disclosing the claimed feature, the combined teachings of Matsuda and Poger do not anticipate the claimed invention. Specifically, Matsuda and Poger both disclose the use of media access control (MAC) /link-layer addresses as a means of guaranteeing “... that no two devices on a network have the same link-layer address, [i.e.,] all devices are assigned unique link-layer addresses at the time of manufacture.” Poger at Col. 3,

lines 24 – 27. While MAC/IP/link-layer addresses are indicated as unique identifiers in both Matsuda and Poger, these identifiers are specifically for “...uniquely identify[ing] each node ...within a network topology.” Matsuda at ¶ [0064]. That is, the uniqueness of the Matsuda’s and Poger’s identifiers are location-based and not device-and-user-based as in the claimed invention. Since Matsuda’s and Poger’s location-based identifiers are not generated on the same basis as the claimed device identifiers, the identifiers are not equivalent.

In addition, the location identifiers disclosed in Matsuda and Poger are provided by the manufacturer of the device. Since the location identifiers are assigned at the time of manufacture, no user data is incorporated therein. In contrast, the device identifier of the claimed invention are generated “...based on a particular user ...”. Claim 1. Furthermore, Matsuda’s and Poger’s manufacture-supplied location identifier is not generated by the computer system within which the device is integrated. To this extent, Matsuda’s and Poger’s MAC/IP/link-layer addresses are not equivalent to the claimed device identifiers because the MAC/IP/link-layer addresses are, at most, location-based identifiers that are pre-fabricated by a manufacturer. As such, Matsuda and Poger do not disclose or teach the claimed system-generated device and user based device identifiers. Accordingly, Applicants respectfully request that the Office withdraw this rejection and allow independent claim 1.

In the same vein, Applicants reiterate the foregoing arguments with respect to independent claims 10, 14 and 19 and respectfully request that the Office withdraw the rejection and allow the claims.

With respect to the §103(a) rejection of dependent claims 6 – 7 and 11 – 12, Applicants enumerate the foregoing deficiencies of Matsuda and Poger; and submit that Okano does not cure

these deficiencies because, like Matsuda and Poger, Okano also teaches the use of location identifiers. Okano at ¶ [0024].

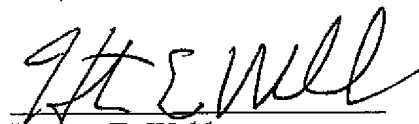
In view of the foregoing, Applicants submit that all dependent claims of independent claims 1, 10, 14 and 19 are allowable based on their dependency and the respective unique features claimed therein. Therefore, Applicants respectfully request that the Office withdraw the rejection and allow the claims.

IV. CONCLUSION

In addition to the above arguments, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



Hunter E. Webb

Reg. No.: 54,593

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Hoffman, Warnick & D'Alessandro LLC
75 State Street
Albany, NY 12207
Telephone: (518) 449-0044
Fax: (518) 449-0047

HEW/TC